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Pacific Workers'

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ORANGE COUNTY LOS ANGELES SAN FRANCISCO SACRAMENTO FRESNO

November 22, 2019

Iana Zadneprovskaya, Esq.
Farber & Company
333 Hegenberger Road, Suite 504
Oakland, CA 94621

Re: Jonathan Shockley v. Biotelemetry, Inc. dba Cardionet, LLC

WCAB No: ADJ12031731

Claim No: 040519008736

Case Status: PQME with Dr. Stoller on 01/23/20

Dear Ms. Zadneprovskaya:

As you know, you proceeded to schedule the Panel Qualified Medical Evaluation with Dr. Adam Stoller for January 23, 2020 at 1:00 p.m.

Enclosed herein please find a copy of Defendant's proposed advocacy letter. Please note any objections within the statutory time limit, otherwise I will send the records and letter as written.

Your notice for the examination indicates a date of January 23, 2020 at 1:00 pm. Please note that Dr. Stoller's office told my assistant over the phone that the examination is set for January 3, 2020, though I suspect that was in error. *I kindly request that you confirm the proper date as January 23, 2020 and if there are any changes, please advise.*

Thank you for your attention in this matter.

Kindest Regards,

COLANTONI, COLLINS, MARREN, PHILLIPS & TULK, LLP

BY:


JAMES J. GOINES

JJG/skb

Encl: Copy of LTA
Copy of LT PQME Dr. Stoller
Copy of SOR

cc: Mario Castro / Chubb Group of Insurance Companies
wcclaimsw2@chubb.com



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ORANGE COUNTY LOS ANGELES SAN FRANCISCO SACRAMENTO FRESNO

November 22, 2019

Jonathan Shockley
1000 Sutter Street, Apt. 123
San Francisco, CA 94109

Re: **Jonathan Shockley v. Biotelemetry, Inc. dba Cardionet, LLC**

WCAB No: ADJ12031731

Claim No: 040519008736

Case Status: PQME with Dr. Stoller on 01/23/20

Dear Mr. Shockley:

As you know, this office represents Defendants in the above-referenced matter.

Please note that your attorney scheduled a Panel Qualified Medical Evaluation with Dr. Adam Stoller for **January 23, 2020 at 1:00 p.m. to be held at 490 Post Street Suite 900 San Francisco, California 94102.**

It is important for you to attend the evaluation.

Should you require transportation, Defendants will provide the same. If you require transportation, please contact your attorney who can contact me, and I will ensure that it is provided.

Thank you for your attention in this matter, Mr. Shockley.

Kindest Regards,

COLANTONI, COLLINS, MARREN, PHILLIPS & TULK, LLP

BY:

A handwritten signature in black ink, appearing to be 'JG' with a stylized flourish.
JAMES J. GOINES

JJG/skb

cc: Mario Castro / Chubb Group of Insurance Companies
wcclaimsw2@chubb.com
Iana Zadneprovskaja, Esq. / Farber & Company



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ORANGE COUNTY LOS ANGELES SAN FRANCISCO SACRAMENTO FRESNO

November 22, 2019

Dr. Adam Stoller
1900 O'Farrell Street, Suite 190
San Mateo, CA 94403

Re: Jonathan Shockley v. Biotelemetry, Inc. dba Cardionet, LLC

WCAB No: ADJ12031731

Claim No: 040519008736

Case Status: PQME with Dr. Stoller on 01/23/20

Dear Dr. Stoller:

Please be advised this office represents Defendants in the above-referenced matter.

Applicant's attorney scheduled a Panel Qualified Medical Evaluation in your office for January 23, 2020 at 1:00 p.m.

By way of background, please note this matter involves a 40-year-old electrocardiogram technician with an accepted Cumulative Trauma injury between June 25, 2018 and February 15, 2019 to Applicant's bilateral upper extremity, hands, wrists, and forearms.

To date only the bilateral upper extremity, wrists, and hands have been accepted and that was based on the mechanism of injury as well as medical reporting thereafter.

Applicant's date of birth is confirmed as September 27, 1978 with social security #217-25-7160.

Applicant first treated on March 1, 2019 with Dr. Patrick O'Lang. That doctor found industrial causation. Applicant noted that he is an electrocardiogram technician and reported several months of worsening bilateral hand, wrist, and forearm pain. Applicant said that his job duties included very intensive prolonged use of a computer and mouse and he believes the symptoms arose from work. He did not recall any specific trauma and did not allege any elbow pain.

Applicant denied prior injuries to overlapping body parts but did indicate prior workers' compensation claims for foot and Achilles injuries, as well as two Achilles surgeries.

Dr. O'Lang diagnosed Applicant with bilateral upper extremity repetitive strain injury and was recommended to see an occupational hand therapist.

Applicant followed up with Dr. O'Lang on March 22, 2019 and was provided the same restrictions and diagnoses.

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Of significance, on April 16, 2019, Dr. O'Lang returned Applicant to work with restrictions including no computer use.

The employer was unable to accommodate. Applicant was then set to see Dr. O'Lang again on May 28, 2019.

Importantly, Applicant then saw Dr. O'Lang on May 28, 2019 at which time Applicant was declared to have reached Permanent and Stationary Status with zero impairment and without the need for future medical treatment.

At that time, Dr. O'Lang once again only diagnosed wrist, forearm, hand, and bilateral upper extremity strains.

Because Dr. O'Lang maintained the permanent restrictions of no computer use, the Tenet decision did not apply thus Applicant's attorney objected to the reporting and elected Dr. Babak Jamasbi as the new Primary Treating Physician.

Applicant has had very little treatment with Dr. Jamasbi yet all his reporting is enclosed.

Applicant previously had treatment for his elbows dating back to 2009. Defendants subpoenaed those records though they have not yet been received. Please note that although Applicant is alleging the elbows in this claim, he never complained of elbow pain to Dr. O'Lang.

Lastly, please kindly take note of Applicant's four prior workers' compensation claims. Although these are not over-lapping body parts, Defendants believe they are still relevant.

- September 24, 2001 injury to Applicant's ankle against San Francisco Ballet and insured by Legion Insurance Company. This claim resolved via Compromise and Release on November 17, 2014.
- March 25, 1998 left foot workers' compensation injury against Zurich Insurance.
- December 2, 1998 injury to both feet against Tulsa Ballet Theater.
- May 18, 2001 workers' compensation injury to his achilles (ankle) against San Francisco Ballet Association.

Please make sure your report addresses the American Medical Association Guides to the Evaluation of Permanent Impairment, 5th Edition, guides in writing your report. Please make sure that you include the corresponding Whole Person Impairment (WPI) rating.

It is requested that your report cover the following:

1. A detailed medical history
2. Your diagnosis
3. Whether or not the medical findings are consistent with the original incident or injury(ies) claimed by the applicant.

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4. Whether or not any further medical treatment is reasonably necessary to cure or relieve the effects of the injury(ies).

5. If disability exists, is it industrially caused or aggravated?

a) If disability exists, is it the result of a specific incident or incidents or is it the result of one or more periods of cumulative trauma. If disability is a result, either in whole or in part, of one or more periods of cumulative trauma, please state your opinion when each period commenced and ended.

b) If disability exists, was there a precipitating cause of all or part of this disability?

6. IF THE DISABILITY IS INDUSTRIALLY CAUSED OR AGGRAVATED, IS IT:

A) TEMPORARY TOTAL?

B) TEMPORARY PARTIAL? IF SO, GIVE EXTENT OF ABILITY TO WORK.

C) WHEN WAS APPLICANT NO LONGER TEMPORARILY DISABLED?

7. If permanent and stationary and ready for rating, describe:

a) Permanent disability factors resulting from the industrial causation or aggravation. If you believe the applicant should be restricted in job duties, please set forth with as much specificity as possible, those restrictions.

b) Whether there should be apportionment to non-industrial factors. If you believe there should be apportionment, please give a discussion on this subject.

1. Factors, if any, which you believe pre-existed and are unrelated to, and not aggravated by, the industrial exposure.

2. Was there a pre-existing condition which did interfere or would have actually interfered with any type of work activity? If you find a pre-existing non-industrial condition, please set forth with specificity the condition and the percentage of disability or impairment in the open labor market which applicant has independent of the industrial injury.

3. The extent of the disability due to the natural progression of pre-existing factors which has resulted in symptoms or disability independent of employment. Please state the percentage of disability due to industrial factors and the percentage due to any pre-existing disability or any disability due to the natural progression of pre-existing factors.

Pursuant to recent changes to L.C. §4663, apportionment of permanent disability shall be based on causation. Any physician preparing reports on the issue of permanent disability must address the issue of causation. The physician must make an apportionment determination by finding what approximate percentage of the permanent disability was caused as a direct result of the work-related injury and what portion was caused by other factors, including prior industrial injuries or other non-industrial factors.

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Pursuant to L.C. §4664, if an injured worker has received a prior award of permanent disability, it shall be conclusively presumed that the prior permanent disability exists at the time of any subsequent industrial injury.

Based on the foregoing, please indicate what the approximate percentage of applicant's current disability is due to the industrial injuries alleged in this case and what percentage is due to a) any previous industrial injuries; b) any subsequent industrial injuries; and c) any non-industrial injuries, illnesses or pathology. Please provide a basis for any apportionment you give in your report.

8. Based upon your evaluation and disability determination, please state whether you believe the applicant is capable of returning to his usual and customary employment activities.

9. Please discuss whether the treatment provided to date, or the treatment you are currently recommending, is reasonable and necessary to cure or relieve the effects of the industrial injury in compliance with the ACOEM guidelines, which includes the extent and scope of medical treatment rendered.

Recently enacted legislation (SB228) adopted evidence-based medicine (EBM) guidelines and the acceptance of the ACOEM guidelines as presumptively correct. The ACOEM guidelines promote "conservative care."

Please discuss the applicant's disability according to the guidelines of the American Medical Association.

Please issue a one-page preliminary report addressing whether applicant is MMI and give any work restrictions immediately following completion of this exam.

Please forward an original of your report to the Workers' Compensation Appeals Board, with copies to the attorneys for the parties.

Thank you kindly for your attention this matter, and the parties look forward to your reporting.

Kindest Regards,

COLANTONI, COLLINS, MARREN, PHILLIPS & TULK, LLP

BY:


JAMES J. GOINES

JJG/skb

Encl: Schedule of Records
Copy of Records Listed on Schedule

cc: Mario Castro / Chubb Group of Insurance Companies
wclaims2@chubb.com
Iana Zadneprovskaja, Esq. / Farber & Company

SCHEDULE OF RECORDS - Jonathan Shockley

2019.03.14 - Application for Adjudication of Claim
2019.03.25 - Daily Note - Annie Ting
2019.05.10 - Daily Note - Annie Ting
2019.03.27 - Daily Note - Mary Naughton
2019.04.01 - Daily Note - Annie Ting
2019.04.03 - Daily Note - Annie Ting
2019.04.08 - Daily Note - Annie Ting
2019.04.10 - Daily Note - Annie Ting
2019.04.15 - Daily Note - Crystal Wong
2019.04.17 - Daily Note - Crystal Wong
2019.04.22 - Daily Note - Crystal Wong
2019.04.24 - Daily Note - Annie Ting
2019.05.03 - Daily Note - Crystal Wong
2019.05.15 - Daily Note - Crystal Wong
2019.05.22 - Daily Note
2019.05.29 - Daily Note - Crystal Wong
2019.04.16 - Treating Physicians Progress Report PR/2 - Patrick O'Lang MD
2019.05.28 - Treating Permanent & Stationary Report/PR-3 - Patrick O'Lang MD
2019.03.01 - Rx - Patrick O'Lang MD
2019.03.01 - Hand Surgery - Patrick O'Lang MD
2019.04.16 - Primary Treating Physician (PR-2) - Patrick O'Lang MD
2019.04.16 - Work Abilities Worksheet
2019.04.16 - Primary Treating Physician (PR-2) - Patrick O'Lang MD
2019.03.20 - Daily Note - Dr Annie Ting
2019.03.01 - Hand Surgery - Patrick O'Lang MD
2019.03.01 - Hand Consult - Patrick O'Lang MD
2019.03.18 - Occupational Therapy - Dr Annie Ting
2019.03.01 - Hand Surgery - Patrick O'Lang MD
2019.03.01 - Rx - Patrick O'Lang MD
2019.03.18 - Occupational Therapy - Patrick O'Lang MD
2019.04.16 - Work Abilities Worksheet
2019.03.18 - Daily Note - Dr Annie Ting
2019.04.16 - Primary Treating Physician (PR-2) - Patrick O'Lang MD
2019.03.27 - Daily Note - Dr Mary Naughton
2019.05.02 - Work Status Report - Patrick O'Lang MD
2019.04.01 - Daily Note - Dr Annie Ting